

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA                          )  
  )  
  )  
v.   )      Case No. 1:04-cr-36-SJM  
  )  
MAURICE F. FOLEY                                      )

**O R D E R**

AND NOW, to wit, this 25<sup>th</sup> Day of January, 2012, upon consideration of the Defendant's "Motion Pursuant to Fed. Civ. Procedure Rule 60(b)(6) For a Reopening of Judgment Due to Extraordinary Circumstance" [284],

IT IS ORDERED that said motion shall be, and hereby is, DENIED inasmuch as the Court of Appeals has already issued a Certified Order [281] denying Defendant a certificate of appealability in this case and ruling that Defendant knowingly and voluntarily waived his right to collaterally attack his conviction and sentence through a motion pursuant to 28 U.S.C. § 2255 and had not establish that enforcing the waiver would work a miscarriage of justice in his case. To the extent Defendant's motion raises new claims of alleged ineffectiveness of counsel, the Court will construe his motion as a second or successive § 2255 petition over which this Court lacks jurisdiction inasmuch as Defendant has failed to obtain the requisite pre-authorization from the Third Circuit Court of Appeals pursuant to 28 U.S.C. §2244(b)(3)(A).

s/      Sean J. McLaughlin

SEAN J. McLAUGHLIN  
United States District Judge

cc: All parties of record.